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Psychology of the Defendant and his Testimony in Criminal Proceedings

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Abstract: The defendant is the main procedural subject and a party in criminal proceedings. Only a natural person who is procedurally competent to exercise their rights and duties can acquire the status of a defendant in criminal proceedings. The procedural competence of the defendant includes two fundamental characteristics – a certain age and mental health. The defendant's testimony can only be obtained through interrogation. Interrogation of the defendant is an evidentiary action that consists of the defendant's statement regarding the criminal offense he is charged with and falls into the category of personal evidence. The legal side of the defendant's interrogation, which regulates his position and his set of rights and duties, as well as legally defined institutions ensuring equality with the opposing party (i.e., the prosecutor), represents a necessary form and condition for a court decision to be based on such evidence, in accordance with the Criminal Procedure Code. However, aside from its legal dimension, the interrogation also entails psychological aspects. Accordingly, this paper analyzes the position of the defendant in criminal proceedings, as well as the psychological aspects of his participation and testimony before the competent authorities. Considering the rights and obligations of the defendant, the available legal means that ensure procedural equality with the prosecutor, but also the various pressures and mental states the defendant experiences (fear, uncertainty, discomfort, shame, humiliation, etc.), along with his motivation to actively participate in the proceedings, and his ability to remain silent or speak untruthfully, it is evident that the defendant can neither be unmotivated nor uninterested in the outcome of the proceedings. Therefore, it was essential to consider the role and significance of the defendant's psychological functions and personality traits, which considerably influence both his ability to testify and the validity, truthfulness, and credibility of his statement. The paper is methodologically based on a theoretical, primarily desk-based analysis of relevant contemporary views in domestic and foreign theory, normative analysis of current legislative sources, inductive and deductive approaches in research, and descriptive analysis of indicators relevant to the psychology of the defendant and the psychological foundations of his testimony in criminal proceedings.

Keywords: *criminal proceedings, defendant, interrogation, evidentiary action, psychological functions, psychological aspects of testimony formation.*

Introduction

The defendant is a person against whom criminal proceedings have been initiated and are being conducted, due to a founded suspicion that they committed a criminal offense charged in a specific indictment. The defendant's position in criminal proceedings is "particularly interesting, because it involves a person whose rights may be limited (e.g., the right to liberty) or whose property may be diminished (e.g., by the imposition of a monetary fine)" (Mirkov, 2019, p. 162).

The defendant is "a legally independent principal criminal procedure subject and, as such, bears the function of the defense" (Milošević and Stevanović, 1997, p. 142). The literature recognizes the view that "the defendant is a natural person, or exceptionally a legal entity, against whom, at the request of the authorized prosecutor, criminal proceedings are conducted to determine whether a criminal offense was committed and whether conditions exist for the imposition of a criminal sanction" (Brkić, 2014, p. 185),

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as well as the opinion that "the defendant is a person against whom criminal proceedings have been initiated and are conducted, due to a founded suspicion of committing a criminal offense, and represents an independent principal procedural subject, who as such holds the function of the defense" (Stevanović and Stanojević, 2005, p. 90), and that "the term 'defendant' refers to a natural person against whom an authorized prosecutor files and conducts a criminal action, and the court conducts criminal proceedings to determine whether the person is criminally responsible and whether the conditions for imposing an appropriate sanction exist" (Grubač, 2004, p. 190).

According to Article 2, paragraph 1, item 2 of the Criminal Procedure Code, a defendant is a person against whom an indictment has been filed but not yet confirmed, or against whom a criminal charge, private criminal complaint, or motion for the imposition of a security measure of compulsory psychiatric treatment has been submitted, and for whom the main hearing or sentencing session has not yet been scheduled. Additionally, the term is used as a general designation for a suspect, accused, and convicted person. Thus, at first, the Code associates the term "defendant" with the procedural stage in which the person is at the time of the indictment, and later expands the definition to serve as a general term for anyone undergoing criminal prosecution. Therefore, the term "defendant" will refer to a person against whom criminal proceedings are conducted, at all stages and phases.

The defendant is the main procedural subject and a party to the proceedings, "entirely procedurally equal to the authorized prosecutor" (Matijašević, 2024, p. 220). This equality is achieved through the defendant's right to both material and formal defense, and through the presumption of innocence — a fundamental principle that governs the defendant's position in criminal proceedings and stands as a major pillar of the rule of law and a democratic society.

Only a natural person can acquire the status of a defendant in criminal proceedings, and this person must be procedurally competent to exercise their rights and duties. Procedural competence, as with all natural persons, includes two fundamental characteristics: a certain age and mental health.

The issue of age, "as one of the essential characteristics of procedural competence and a fundamental requirement for acquiring the status of a defendant, is regulated by the provisions of substantive criminal law" (Milošević and Stevanović, 1997, p. 142), as well as by the provisions of the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles. Article 2 of this *lex specialis* defines the age of the offender when the offender is a minor. A minor is considered a person who, at the time of committing the offense, has reached the age of fourteen but has not yet turned eighteen. The law recognizes two categories of minors: younger minors — persons aged between fourteen and sixteen, and older minors — persons aged between sixteen and eighteen. The law also defines the term "young adults" as persons who were eighteen at the time of the offense but not yet twenty-one at the time of trial.

Mental health in criminal proceedings is conditioned by the state of sanity, and two situations are distinguished: the mental health of the defendant at the time of the offense, and at the time the proceedings are initiated and conducted. Criminal responsibility differs between these two. It should be emphasized that there is a presumption of mental health — all individuals, including defendants, are presumed to be mentally sound both at the time of the offense and during the proceedings. If there is any doubt about a defendant's mental state, the criminal court is obliged to determine it through forensic psychiatric evaluation. If it is established that the defendant became mentally ill after committing the offense, the proceedings may be suspended in the case of temporary illness, or terminated in the case of permanent mental illness. If the defendant was mentally ill at the time of the offense, a security measure of compulsory psychiatric treatment and confinement in a health institution or compulsory psychiatric treatment while free may be imposed. Hence, "a person in a state of insanity will not be held criminally responsible for committing the offense" (Perović, 2020, p. 112).

The defendant's statement can only be obtained through interrogation. This evidentiary action consists of the defendant's declaration regarding the alleged criminal offense. Broadly speaking, interrogation serves two purposes: to inform the defendant of the charges and allow him to present his defense (Damaška, 1962).

The defendant is usually the most knowledgeable about how the criminal offense occurred, so "his statement can be very helpful in establishing the factual circumstances. The evidentiary action of interrogation and the defendant's statement remain a complex and current topic in criminal procedure law. While legal aspects are primary, one should not ignore the fact that the notion of testimony originates in general psychology, making its psychological aspect functionally and substantively inseparable from its legal component" (Mirkov, 2019, p. 162).

The mental processes involved in forming testimony, as well as the psychological characteristics of participants, are the subject of forensic and criminal psychology and, together with various criminal law institutes (like legal (in)sanity, *actiones liberae in causa)* form an important bridge between law and psychology. These intersections indicate that no discipline operates in isolation and that multidisciplinary approaches are essential in practice.

The defendant's position is especially interesting because it cannot be equated with any other role in criminal proceedings. For instance, unlike a witness, who might have been a chance observer, or an expert whose knowledge may aid the court, the defendant's position arises from the existence of a certain level of belief that the individual committed the offense. This belief can range throughout the process — from reasonable suspicion to certainty. Given this, along with the psychological pressures (fear, uncertainty, discomfort, shame, humiliation, etc.) and the possibility of remaining silent or giving false statements, it is clear that unlike other participants, the defendant cannot be indifferent or unmotivated about the course or outcome of the trial.

A Brief Overview of the Defendant's Position and the Evidentiary Action of Interrogation in Criminal Proceedings

According to Article 3, paragraph 1 of the Criminal Procedure Code and Article 34, paragraph 3 of the Constitution of the Republic of Serbia, everyone shall be presumed innocent until their guilt for a criminal offense is established by a final court decision.

In legal theory, there are various perspectives on the legal nature of the presumption of innocence — whether it should be understood as one of the fundamental procedural principles, as a right belonging to the defendant as a party to the proceedings, or as a key characteristic of the defendant, such as mental health, age, etc. (Matijašević, 2024). The presumption of innocence is often linked to the principle of *in dubio pro reo*, since both are procedural guarantees that enhance the defendant's position. It is also associated with the principle of contradiction, which "enables the parties to freely and directly present their personal views and arguments on all facts and legal issues in the case" (Matijašević Obradović and Subotin, 2020, p. 36). Accordingly, the procedural effect of the presumption of innocence is that it "eliminates any *a priori* assumption of the defendant's guilt and remains unchanged throughout the criminal proceedings until the final decision of the court" (Jekić, 2003, p. 127). Flower (2020, p. 150) and Nilsson (2021, p. 2) interpret criminal trials as "an interaction between the court and the parties, where each individual must perform their societal role to ensure the process runs smoothly, with professional and lay participants occupying different roles, and the defendant's position being particularly stressful as their guilt is being assessed."

As the main procedural subject, the defendant is equal to the authorized prosecutor and is granted a set of rights and duties that define their procedural position. The basic right of the defendant is the right to defense, which may be material or formal. This right is both statutory and constitutional, guaranteed under Article 33, paragraph 2 of the Constitution of the Republic of Serbia. From this, fundamental right derive other procedural rights listed in Article 68 of the Criminal Procedure Code, such as: To be informed promptly and in a language the defendant understands of the offense charged, the nature and grounds of the accusation, and that any statement made may be used as evidence; To remain silent or refuse to answer particular questions, to present their defense freely, to plead guilty or not guilty; To defend themselves personally or with the assistance of a legal counsel; To have their counsel present during the interrogation; To be brought before a court without delay and tried fairly and within a reasonable time; To review the criminal complaint, investigative reports, and expert findings before the first interrogation; To be given sufficient time and opportunity to prepare a defense; To examine case files and inspect physical evidence; To gather evidence for their defense; To respond to all facts and evidence presented against them and present facts and evidence in their favor; To cross-examine prosecution witnesses and request examination of defense witnesses under the same conditions; To use legal remedies and perform other actions as allowed by the Code.

Article 9 of the Criminal Procedure Code strictly prohibits and penalizes the use of torture, inhumane or degrading treatment, force, threats, coercion, deceit, medical procedures, or any other measures intended to influence the defendant's will or extract a confession or any other statement or act from them or any other participant. In this context, Lach and colleagues emphasize that "national legislators are obliged to adopt

provisions that not only safeguard the rights of the defendant but also adequately protect the rights of others involved, including persons being examined during the criminal proceedings, as such situations can involve secondary victimization and other specific risks and discomforts" (Lach, Klubińska and Badowiec, 2022, p. 1159).

In addition to rights, the defendant, as a procedural subject equal to the prosecutor, also has certain duties. According to Article 70 of the Criminal Procedure Code, the defendant must respond to summonses from authorities and notify the competent authority of any change of address or intent to relocate.

As noted earlier, a defendant's statement can be obtained only through interrogation. This is an essential evidentiary action, as the defendant's statement contains facts that may either support or go against their interests (Matijašević, 2024, p. 327).

The interrogation is conducted only if the defendant is available to the court, i.e., if the trial is held in the defendant's presence. In line with legal provisions, "successful conduct of criminal proceedings requires the presence of certain individuals, primarily the defendant" (Matijašević Obradović and Zarubica, 2018, p. 2). Exceptionally, this evidentiary action will not be conducted if the defendant is not available, and conditions for trial in absentia are met (under Article 381 of the Criminal Procedure Code — trial in absentia is allowed omly if there are strong reasons for it, and if the defendant is in hiding or unavailable to the court, and the panel grants the motion of the prosecutor).

During interrogation, the defendant may take an active approach and provide a statement regarding the alleged criminal offense, or adopt a passive stance and refrain from any statement. "The defendant must be given the opportunity to testify, but whether they exercise this right is solely their decision" (Škulić and Bugarski, 2015, p. 265).

The main goal of interrogation is to allow the defendant to state everything they wish to say about the charges. Only after they have provided a statement may the authorities ask questions to clarify any unclear or contradictory issues.

The defendant is interrogated multiple times throughout the proceedings — during the investigation, at the main hearing before the first-instance court, and at the hearing before the appellate court. Interrogation is conducted by the prosecutor or the court. Exceptionally, under Article 289, paragraphs 4 and 5 of the Code, during the preliminary investigation stage, police may interrogate a suspect under specific conditions. It is important to note that "for a police interrogation of a suspect to be valid, the suspect must consent and give their statement in the presence of legal counsel. The record of this interrogation may be used as evidence, and must be promptly submitted to the prosecutor if the prosecutor was not present" (Škulić and Bugarski, 2015, p. 269).

The interrogation process consists of two parts: (1) The competent authority first establishes the identity of the defendant, informs them of their rights, and cautions them about their legal duties; (2) The second part involves the actual interrogation regarding the criminal event (Bejatović et al., 2013, p. 66).

Once these prerequisites are met, the defendant who wishes to present their defense is further questioned about the alleged crime. The Code also prescribes rules for conducting the interrogation.

According to Article 86, paragraphs 1–3 of the Code, the defendant is interrogated orally, with decency and full respect for their dignity. The defendant has the right to use notes during interrogation. They must be allowed to express themselves freely regarding all incriminating circumstances and to present all facts in their defense. Once the defendant finishes, questions may be posed to supplement or clarify the testimony. Questions must be clear, specific, and comprehensible; they must not be misleading, presume an admission, or suggest answers.

If the defendant later makes statements that differ from earlier ones — especially if they retract a confession — the authorities may, under Article 86, paragraph 4 of the Code, ask them to explain the reasons for the differing statements. If the defendant is deaf, questions are posed in writing; if mute, answers must be written; if blind, written evidence is read aloud. If interrogation cannot be conducted in this manner, an interpreter will be used. If the defendant does not understand the language of the proceedings, questions are translated.

A written record is kept of the interrogation.

In terms of the indictment, there are two primary types of testimony a defendant may give: confession and denial. This only applies if the defendant actively participates — if the defendant remains silent, such a defense is never interpreted as a confession and must be treated as a full denial (Škulić, 2013, p. 211).

Ultimately, the defendant's statement is assessed as any other evidence — according to the principle of free evaluation of evidence and the judge's free belief. The fact that the defendant chose not to testify or answer questions may not be considered an aggravating circumstance or used against them in any evidentiary sense.

The Importance of Applying Scientific Psychological Disciplines in Criminal Proceedings

The defendant's interrogation, as an evidentiary action, belongs to the group of personal evidence, as opposed to material evidence, because the source of information about the contested facts is a human being. The formation of the defendant's testimony, as well as that of other participants (e.g., witnesses), undergoes specific psychological processes that significantly determine the content and value of the statement presented to the authorities as a result of interrogation (or examination, in the case of witnesses). Foreign literature emphasizes the importance of understanding the psychological side of the defendant's behavior and testimony, because the approach of the parties involved "should foster public trust in the criminal justice system while simultaneously ensuring fundamental fairness for the defendant" (Hughes and Khan, 2024, p. 335). It is also important to highlight the role of the defendant's motivation to participate actively in proceedings and to provide a complete testimony. In psychology, "motives are defined as organic or psychological factors that trigger or regulate behavior aimed at achieving certain goals" (Rot, 1977, p. 87). The development of motivation is "a process of initiating, directing, and managing human activity, as motives are connected to goals, interests, and needs. They greatly influence behavior, while the selection of motives also depends on one's internalized value orientations, social attitudes, and character traits" (Nikolić Ristanović and Konstantinović Vilić, 2018, p. 405).

The psychological basis of testimony formation in criminal proceedings is highly complex and involves multiple processes related to perception, comprehension, memory, and reproduction of observed events. Every testimony is formed through these phases, which significantly shape its content and characteristics (Matijević and Marković, 2013, p. 233). The process can be summarized by the formula: P (Perception) + C (Comprehension) + M (Memory) + R (Reproduction) = Testimony

The forensic psychological concept of testimony, according to the controling opinion in legal theory, includes a narrower concept of testimony and a broader concept of testimony. According to the position that prefers a narrower understanding, „defendant's statement is the communication of perceived and remembered facts or facts related to them, which are made by the interrogated persons in criminal proceedings" (Delić, 2011, p. 2). According to the position that emphasizes the broader understanding, "testemony is a statement that is given by any participant of the proceedings in the context of a judicial proceeding in the broadest sense of the word, in the capacity of such a participant, and the statement can refer to any issue that could be significant for the course and outcome of the proceeding" (Aćimović, 1987, p. 205; Aćimović, 1980, p. 35).

The importance of forensic and criminal psychology in criminal proceedings is indisputable. The knowledge provided by these disciplines — especially during evidence gathering and understanding the psychological processes of participants (notably the defendant) — is invaluable. Forensic (or so-called legal) psychology is a scientific psychological discipline whose „subject of study consists of psychological processes and characteristics, as well as their inherent behaviors of participants in court proceedings" (Jekić, 2001). In general, „the subject of study of both forensic and criminal psychology is psychological processes and behaviors, only in the case of forensic psychology, it is the psychological processes and behaviors of the participants in the judicial process (accused, witnesses, injured parties, prosecutor, judge, jury members), while in the case of criminal psychology, it is about the psychological processes and behaviors of the participants in the criminal investigation (suspect, injured party, witness) (Baić and Deljkić, 2019, pp. 11-12).

Some foreign scholars argue that "the utility of forensic and criminal psychology techniques in criminal trials still requires research — including whether such techniques benefit or hinder the careers of legal professionals or outcomes for their clients" (Wilson, 2019, p. 4). Other authors note the lack of research into whether psychological techniques have a negative or positive impact on lawyers, officials, or even psychologists themselves, particularly in terms of effects on the defendants (Kim, Becker-Cohen and Serakos, 2015; Spaulding, Cook and Avila, 2014; Wexler, 2013; Winick, 2013). Nevertheless, the growing role of forensic and criminal psychology is evident both in Serbia and internationally, especially in the domain of therapeutic jurisprudence — when defendants are addicts or persons with substance use disorders. It is said that "the insensitivity of the regular judicial system toward individuals suffering from drug or alcohol addiction has catalyzed the development of therapeutic justice in comparative law, aiming to improve rehabilitation and reduce recidivism in criminal proceedings" (Tešović, 2024, p. 135).

Methodology and Source of Research Data

The subject of analysis in this paper is the position of the defendant in criminal proceedings, along with the psychological aspects of his behavior and testimony before the competent procedural authorities.

As previously emphasized in the introduction, the defendant's role in criminal proceedings is particularly interesting, as it cannot be equated with that of any other procedural participant. Considering the rights and obligations of the defendant, the available legal instruments that ensure procedural equality with the opposing party — i.e., the public prosecutor — as well as the various pressures and states the defendant experiences (fear, uncertainty, discomfort, shame, humiliation, etc.), together with his motivation to actively participate in the proceedings and the option to remain silent or be untruthful, it is clear that, unlike other primary or secondary procedural actors, the defendant cannot be indifferent or unmotivated about the course of the proceedings, nor uninterested in its final outcome.

The paper is methodologically based on: Theoretical,primarily desk analysis of relevant contemporary positions in both domestic and international literature; Normative analysis of current legislative sources; Inductive and deductive approaches to research; Descriptive analysis of relevant indicators concerning the psychology of the defendant and the psychological foundations of their testimony in criminal proceedings.

The Psychology of the Defendant and the Psychological Foundations of the Defendant's Testimony in Criminal Proceedings

From the perspective of criminal procedure and criminalistics, the proper assessment of the truthfulness of testimonies by procedural subjects — as personal sources of evidence — is of great importance. The reliability of such personal evidence (e.g., the defendant's interrogation or a witness's examination) is evaluated, on the one hand, by comparing it with other established evidence and testimonies (and, if necessary, by conducting confrontations with co-defendants or other witnesses), and on the other hand, through the application of various psychological techniques and expertise. Knowledge of the psychology of testimony is, therefore, a highly valuable tool, given the complexity of the psychological foundations involved in the formation of testimony.

Accordingly, a defendant's testimony may be classified as truthful or untruthful. A truthful testimony is complete, objective, and corresponds to the factual situation or actual event. An untruthful testimony may be either unintentionally false (i.e., mistaken) or intentionally false (i.e., a lie).

To understand the psychology of the defendant and their testimony, it is important to analyze both: Psychological functions or mental processes involved in the production of testimony, Psychological traits or personality characteristics (e.g., temperament, character, abilities, interests, needs, attitudes, etc.).

The mental processes involved in the testimony of a procedural subject (obtained through interrogation or examination) are outlined in the following table:

Table 1. *Mental Functions (Processes) Underlying Testimony of the Procedural Subject as a Personal Source of Evidence*

Mental Functions (Processes)			
	Cognitive (Intellectual) Functions	Conative (Volitional) Function	Other Mental Functions
1.	Memory	Drives (Motives)	Attention
2.	Perception	Emotions	Consciousness
3.	Thinking	Will	
4.	Intelligence		

Source: Mirkov, 2016; Baić and Deljkić, 2019

Perception is a complex mental function and the "first psychological function in the formation of testimony" (Mirkov, 2016, p. 287). It is defined as "a complex mental process that begins when a sensory organ registers a stimulus, which then travels from the specific sensory organ to areas of the cerebral cortex, where it is transformed into a sensation" (Milovanović, 2005, p. 29). The reliability of perception can be

compromised during testimony "due to the selective nature of perception, logical mechanisms of completion, and the influence of personal attitudes, desires, and prejudices" (Golubović, Lakić and Ilić, 2002, p. 57).

Building upon perception, attention plays a vital role in other mental processes — especially in memory — and is characterized by alertness (vigilance) and concentration (tenacity). Modern cognitive psychology emphasizes the "multi-layered nature of attention, distinguishing between visual and auditory attention, as well as attention in perceptual information processing, cognitive control, and response generation" (Anderson, 2015; Baić and Deljkić, 2019, p. 66). The main properties of attention are: span, intensity, selectivity, direction, and mobility. Testimony reliability may be impaired by attention disorders — specifically in vigilance or tenacity — often manifesting as distractibility, or aprosexia, which some authors define as a lack of concentration.

Memory is a mental function "that participates in the creation of testimony and arises in conjunction with perception, expression, thinking, and other mental traits and personality characteristics" (Aćimović, 1987; Mirkov, 2016, p. 294). It is believed that "a defendant who has clearly remembered the circumstances of the offense can effectively recall possible evidence, witnesses, and relevant facts, thereby being able to refute the charges or at least influence their legal qualification" (Mirkov, 2016, p. 296). Memory is the brain's ability to store and retrieve information (Golubović, Lakić and Ilić, 2002, p. 58). As Mirkov (2016, p. 294) explains, memory is composed of five elements, listed in the following table:

Table 2. *Elements of Memory Involved in the Formation of Testimony*

Elements of Memory		
First element	Fixation (registration of an engram)	The initial phase in the process of memory, characterized by the ability to retain certain material in the form of an engram. This ability has its organic and physiological basis — it is the moment of concentration of the senses and consciousness for the fixation of the stimulus that is to become the object of awareness.
Second element	Retention	A key element in the memory process, because that which was not previously retained in consciousness cannot later be recognized, nor reproduced.
Third element	Evocation	The exertion of intellectual effort to "recall" what was perceived and what one wishes to reproduce. It can be intentional or spontaneous. From the perspective of our topic, intentional evocation is particularly important, because during the interrogation, the defendant is always reminded of the circumstances of the accusation, which requires him to recall an event from the past. Intentional evocation is even more pronounced during the questioning of the defendant.
Forth element	Recognition	In the chronology of the process, it could be said to be a phase, but one that does not necessarily precede reproduction and may even occur without evocation. Recognition is most commonly present in communication and represents incomplete memory or incomplete presentation of well-remembered content.
Fifth element	Reproduction	It represents the part of memory process that enables the preservation of the past without renewed perception of the information. Reproduction is the restoration of content in full and in the order in which it was experienced and remembered, and is the true and best evidence of memory. Interrogations of parties are conducted more often at the level of recognition, while the presentation of facts and data — especially in the context of giving a confession — for the purpose of establishing evidence of guilt, should be conducted on the basis of reproduction.

Source: Mirkov, 2016, pp. 294-295; Kostić, 2000, pp. 70-73; Marić and Lukić, 1998, p. 28; Ćirić and Dimitrijević, 2009, p. 32

Testimony reliability can be compromised by memory disorders, such as amnesia, hypomnesia, hypermnesia, or transient forgetfulness, caused either organically or by fatigue, emotional states, or excitement.

Thinking as a mental activity represents the directed shaping of signs and symbols in order to come to an understanding of relationships and connections between phenomena (Rot, 2010) and is undoubtedly the most complex psychological process, which is actually the link between all other psychological processes that participate in the creation of statements and unifies them into a whole. Therefore, it can be said that thinking is "a mental function by which a person, using thought operations, perceives the real relationships between objects and phenomena and draws appropriate conclusions based on that" (Marić and Lukić, 1998, p. 34). The literature mentions "individual experience, intelligence, motives, certain emotional processes" as factors that are important for the thinking process (Delić, 2008, p. 47). The credibility of statements can be compromised if a person has thought disorders that manifest themselves in several

ways: "verbosity (statements is not separated from the irrelevant); slowness of the flow of thought (speech is drawn out and slowed down, and the impulse to speak is reduced); block in thought (sudden interruption of the continuity of the thought process and interruption of the presentation of the started thought); incoherent thinking (the connection between the expressed thoughts is deficient); crazy ideas (thought contents that are unrealistic, illogical, absurd and unacceptable for the environment), obsessions or obsessive ideas (thoughts that forcefully appear in a person's mind, against their will); overestimated ideas (contents that have real significance in a person's life, but are excessively emphasized and exaggerated)" (Baić and Deljkić, 2019, p. 78).

In criminal proceedings, various individuals appear, each with their own interests, motives, reasons, and characteristics, which must be taken into account when planning and conducting the interrogation of the defendant and the examination of witnesses. Therefore, "the examination of the personality of the defendant is often of crucial importance for making the correct decision regarding which criminal sanction to impose on the perpetrator of a criminal offense" (Drakić, 2014, p. 253). In line with this, special attention should be given to the intelligence and drives, i.e., the motives of the defendant in criminal proceedings. Namely, intelligence is a significant personality trait and is defined as a person's ability to recognize facts, their relations to objects and phenomena, acquire new knowledge, and solve problems, whereas drives (motives) are actually impulses that prompt a person to pursue their own interests. Taking into account the situation in which the defendant may find themselves during criminal proceedings, their intelligence and motivation to participate in the process and refute, either wholly or partially, the allegations made against them, the aforementioned psychological functions may be "a significant factor in the conduct of their defense." It should be noted that an intelligent defendant carefully prepares the commission of a criminal offense, strives not to leave any traces behind, nor to retain any items related to the crime, and as a result, the available evidence concerning the commission of the offense is usually less abundant. When it comes to the interrogation of the defendant, their ability to perceive essential connections in the examiner's questions becomes apparent, along with their skill in identifying what the examiner is seeking to discover and what is concealed as important within those questions. Thus, the defendant can easily avoid giving the answer the examiner seeks or may present certain facts differently — facts which, in the absence of other evidence, may lead the procedural authority to harbor doubt regarding the existence of certain circumstances" (Mirkov, 2016, p. 304). The credibility of the testimony may be compromised if the person exhibits certain quantitative or qualitative disorders in drives, i.e., motives, or displays tendencies toward specific reactive states that may fall into the category of temporary mental disturbances affecting intelligence as a psychological function.

Finally, the importance of emotions (as a subjective reflection of the human psyche towards to the stimuli from the outside world), will (as a function that is essentially related to drives) and consciousness (as the highest psychological process that establishes, synchronizes and controls the development of the human psyche as a whole) as psychological functions, which are very complex and can significantly determine the attitude of the accused and his role in the criminal proceedings, should be emphasized.

By studying the psychology of the defendant and his testimony in criminal proceedings, it can be concluded that various processes at the level of cognitive, affective, and behavioral functioning determine the specific psychological traits and characteristics of each individual. What must be taken into account during the interrogation of the defendant in criminal proceedings, as well as during the assessment of the truthfulness and credibility of his testimony, is certainly his psychological vulnerability, which "refers to the psychological characteristics or mental states of a person that, in certain cases, influence personal sources to provide inaccurate, unreliable, and incorrect information" (Gudjonsson, 2003; Meissner and Russano, 2003; Baić and Deljkić, 2019, p. 106). Four forms of psychological vulnerability are distinguished and are presented in the following table.

Table 3. *Forms of Psychological Vulnerability of the Defendant in Criminal Proceedings*

Psychological Vulnerability			
Mental Disorders	Abnormal Mental States	Intellectual Functioning	Personality Characteristics
1. Mentar illnesses	1. Anxiety	1. Inability to understand questions	1. Suggestibility
2. Learning disorders	2. Panic attacks	2. Inability to respond	2. Complience
3. Pesonality disorders	3. Phobias	3. Inability to comprehend the significance of the interrogation	3. Tacit agreement

Source: Gudjonsson, 2003; Gudjonsson, 2003

It is evident that these forms of psychological vulnerability significantly affect both the defendant's ability to testify and the validity, truthfulness, and credibility of the testimony itself.

Conclusion

The defendant is the principal procedural subject and a party in criminal proceedings. Only a natural person who is procedurally competent to exercise their rights and duties may acquire the status of a defendant. Procedural competence, like that of natural persons in general, is determined by two basic conditions — a certain age and mental health.

As stated in the paper, the defendant's testimony can only be obtained through interrogation. The interrogation is an evidentiary action consisting of the defendant's statement regarding the criminal offense they are charged with, and it belongs to the category of personal evidence.

The importance of the defendant's interrogation as an evidentiary action is not only reflected in its undeniable practical relevance, but also in the fact that it is placed first among evidentiary actions in the Criminal Procedure Code of the Republic of Serbia. The legal aspects of interrogation — including the regulation of the defendant's position, the scope of rights and duties, and the institutional framework ensuring equality with the opposing party, i.e., the prosecutor — represent an essential form and condition for the court to base its decision on such evidence. However, beyond its legal dimension, the interrogation also has significant psychological implications.

Accordingly, the subject of this paper is the position of the defendant in criminal proceedings, as well as the psychological aspects of his participation and testimony before the competent authorities. This research may contribute to the unification of approaches to assessing defendants' statements by integrating the legal provisions of the Criminal Procedure Code of the Republic of Serbia with established models of psychological vulnerability and memory formation. Accordingly, future empirical research could be aimed at quantitatively assessing the correlation between the psychological functions on which the testimony of a criminal subject is based, and the psychological vulnerabilities that significantly affect both the defendant's ability to give his or her testimony, as well as the validity, truthfulness, and credibility of the testimony itself, in relation to the rate of false confessions or refusal to give testimony to judicial authorities. What could also be the subject of further research is how often psychological factors that influence the formation of the defendant's statement are taken into account and how they are interpreted in the reasoning of the court verdict.

Given the defendant's rights and obligations in the proceedings, the legal instruments that ensure procedural equality with the prosecutor, and the array of psychological pressures and emotional states the defendant undergoes (fear, uncertainty, discomfort, shame, humiliation, etc.), as well as the defendant's motivation to actively participate in the process and the option to remain silent or even to speak untruthfully — all of these point to the fact that, unlike other primary or secondary procedural subjects, the defendant cannot be indifferent or unmotivated with regard to the proceedings, nor uninterested in the final outcome.

Therefore, it was important to examine the role and influence of the defendant's psychological functions and personality traits, which significantly affect both the capacity of the defendant to provide testimony and the validity, truthfulness, and credibility of that testimony.

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The authors declare no conflict of interest.

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The original contributions presented in the study are included in the article/supplementary material, further inquiries can be directed to the corresponding author/s.

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Author Contributions

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